

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING IMPACT FEE LAWS; REVISING DEFINITIONS;
5 REVISING THE MEMBERSHIP OF AN IMPACT FEE ADVISORY COUNCIL; PROVIDING FOR THE ISSUANCE
6 OF DEVELOPMENT PERMITS BY COUNTIES THAT HAVE NOT ADOPTED BUILDING CODES; AND
7 AMENDING SECTIONS 7-6-1601, 7-6-1603, AND 7-6-1604, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 **Section 1.** Section 7-6-1601, MCA, is amended to read:

12 **"7-6-1601. Definitions.** As used in this part, the following definitions apply:

13 (1) (a) "Capital improvements" means improvements, land, and equipment ~~with a useful life of 10 years~~
14 ~~or more~~ that increase or improve the service capacity of a public facility.

15 (b) The term does not include consumable supplies.

16 (2) "Connection charge" means the actual cost of connecting a property to a public utility system and
17 is limited to the labor, materials, and overhead involved in making connections and installing meters.

18 (3) "Development" means construction, renovation, or installation of a building or structure, a change
19 in use of a building or structure, or a change in the use of land when the construction, installation, or other action
20 creates additional demand for public facilities.

21 (4) "Development permit" means a permit issued by a governmental entity that authorizes the
22 development and use of a building as provided in [section 4].

23 ~~(4)~~(5) "Governmental entity" means a county, city, town, or consolidated government.

24 ~~(5)~~(6) (a) "Impact fee" means any charge imposed upon development by a governmental entity as part
25 of the development approval process to fund the additional service capacity required by the development from
26 which it is collected. An impact fee may include a fee for the administration of the impact fee ~~not to exceed 5%~~
27 ~~of the total impact fee collected~~ adopted in accordance with 7-6-4013.

28 (b) The term does not include:

29 (i) a charge or fee to pay for administration, plan review, or inspection costs associated with a permit
30 required for development;



1 (ii) a connection charge;

2 (iii) any other fee authorized by law, including but not limited to user fees, special improvement district
3 assessments, fees authorized under Title 7 for county, municipal, and consolidated government sewer and water
4 districts and systems, and costs of ongoing maintenance; or

5 (iv) onsite or offsite improvements necessary for new development to meet the safety, level of service,
6 and other minimum development standards that have been adopted by the governmental entity.

7 ~~(6)(7)~~ "Proportionate share" means that portion of the cost of capital system improvements that
8 reasonably relates to the service demands and needs of the project. A proportionate share must take into account
9 the limitations provided in 7-6-1602.

10 ~~(7)(8)~~ "Public facilities" means:

11 (a) a water supply production, treatment, storage, or distribution facility;

12 (b) a wastewater collection, treatment, or disposal facility;

13 (c) a transportation facility, including roads, streets, bridges, rights-of-way, traffic signals, and
14 landscaping;

15 (d) a storm water collection, retention, detention, treatment, or disposal facility or a flood control facility;

16 (e) a police, emergency medical rescue, or fire protection facility; and

17 (f) other facilities for which documentation is prepared as provided in 7-6-1602 that have been approved
18 as part of an impact fee ordinance or resolution by:

19 ~~———(i) a two-thirds majority of the governing body of an incorporated city, town, county, or consolidated local
20 government; or~~

21 ~~———(ii) a unanimous vote of the board of county commissioners of a county government."~~

22

23 **Section 2.** Section 7-6-1603, MCA, is amended to read:

24 **"7-6-1603. Collection and expenditure of impact fees -- refunds or credits -- mechanism for appeal**
25 **required.** (1) The collection and expenditure of impact fees must comply with this part. The collection and
26 expenditure of impact fees must be reasonably related to the benefits accruing to the development paying the
27 impact fees. The ordinance or resolution adopted by the governmental entity must include the following
28 requirements:

29 (a) Upon collection, impact fees must be deposited in a special proprietary fund, which must be invested
30 with all interest accruing to the fund.

1 (b) A governmental entity may impose impact fees on behalf of local districts.

2 (c) If the impact fees are not collected or spent in accordance with the impact fee ordinance or resolution
3 or in accordance with 7-6-1602, any impact fees that were collected must be refunded to the person who owned
4 the property at the time that the refund was due.

5 (2) All impact fees imposed pursuant to the authority granted in this part must be paid no earlier than:

6 (a) the date of issuance of:

7 (i) a development permit; or

8 (ii) a building permit if a building permit is required for the development; or

9 (b) no earlier than the time of wastewater or water service connection or well or septic permitting.

10 (3) A governmental entity may recoup costs of excess capacity in existing capital facilities, when the
11 excess capacity has been provided in anticipation of the needs of new development, by requiring impact fees for
12 that portion of the facilities constructed for future users. The need to recoup costs for excess capacity must have
13 been documented pursuant to 7-6-1602 in a manner that demonstrates the need for the excess capacity. This
14 part does not prevent a governmental entity from continuing to assess an impact fee that recoups costs for
15 excess capacity in an existing facility. The impact fees imposed to recoup the costs to provide the excess capacity
16 must be based on the governmental entity's actual cost of acquiring, constructing, or upgrading the facility and
17 must be no more than a proportionate share of the costs to provide the excess capacity.

18 (4) Governmental entities may accept the dedication of land or the construction of public facilities in lieu
19 of payment of impact fees if:

20 (a) the need for the dedication or construction is clearly documented pursuant to 7-6-1602;

21 (b) the land proposed for dedication for the public facilities to be constructed is determined to be
22 appropriate for the proposed use by the governmental entity;

23 (c) formulas or procedures for determining the worth of proposed dedications or constructions are
24 established as part of the impact fee ordinance or resolution; and

25 (d) a means to establish credits against future impact fee revenue has been created as part of the
26 adopting ordinance or resolution if the dedication of land or construction of public facilities is of worth in excess
27 of the impact fee due from an individual development.

28 (5) Impact fees may not be imposed for remodeling, rehabilitation, or other improvements to an existing
29 structure or for rebuilding a damaged structure unless there is an increase in units that increase service demand
30 as described in 7-6-1602(1)(j). If impact fees are imposed for remodeling, rehabilitation, or other improvements

1 to an existing structure or use, only the net increase between the old and new demand may be imposed.

2 (6) This part does not prevent a governmental entity from granting refunds or credits:

3 (a) that it considers appropriate and that are consistent with the provisions of 7-6-1602 and this chapter;

4 or

5 (b) in accordance with a voluntary agreement, consistent with the provisions of 7-6-1602 and this
6 chapter, between the governmental entity and the individual or entity being assessed the impact fees.

7 (7) An impact fee represents a fee for service payable by all users creating additional demand on the
8 facility.

9 (8) An impact fee ordinance or resolution must include a mechanism whereby a person charged an
10 impact fee may appeal the charge if the person believes an error has been made."

11

12 **Section 3.** Section 7-6-1604, MCA, is amended to read:

13 **"7-6-1604. Impact fee advisory committee.** (1) A governmental entity that intends to propose an impact
14 fee ordinance or resolution shall establish an impact fee advisory committee.

15 (2) An impact fee advisory committee must include at least one representative of the development
16 community ~~and one certified public accountant~~. The committee shall review and monitor the process of
17 calculating, assessing, and spending impact fees.

18 (3) The impact fee advisory committee shall serve in an advisory capacity to the governing body of the
19 governmental entity."

20

21 NEW SECTION. **Section 4. Notification of development of structure.** (1) A county that has not
22 adopted building codes that have been certified pursuant to 50-60-302 may, by ordinance, enact a notification
23 system that requires the owner of a new structure to provide information to the county prior to development of
24 the structure. The purpose of the notification system is to:

25 (a) ensure that all fees are paid and permits are obtained prior to the development of any new structure
26 outside the limits of incorporated cities and towns;

27 (b) allow the county to monitor compliance with state and local codes and regulations;

28 (c) allow the county to document new construction for the purpose of providing emergency services and
29 for public health and safety planning;

30 (d) allow the county to track growth patterns for planning purposes and for planning capital improvements

1 and infrastructure requirements;

2 (e) allow the county to establish an inventory of development and building lots; and

3 (f) establish a central collection point for impact fees as authorized in Title 7, chapter 6, part 16.

4 (2) A county that implements and uses a notification system for the development of new structures as
5 provided in this section may not submit building codes for certification by the department and may not enforce
6 building codes unless the county discontinues the notification system.

7 (3) As used in this section, "new structures" does not include structures used for agricultural purposes.

8

9 **NEW SECTION. Section 5. Codification instruction.** [Section 4] is intended to be codified as an
10 integral part of Title 50, chapter 60, part 3, and the provisions of Title 50, chapter 60, part 3, apply to [section 4].

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